

Message Text

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E.O. 11652: N/A

TAGS: EINV, BEXP, MX

SUBJECT: MEXICAN LAW ON INVENTIONS AND TRADEMARKS

REF: STATE 226940

1. EMB ECONOFF HAS KEPT IN CLOSE CONTACT WITH ALVAREZ SOBERANIS, DIRECTOR OF NATIONAL REGISTRY FOR TECHNOLOGY TRANSFERS, CONCERNED FIRMS IN THE AMERICAN CHAMBER OF COMMERCE HERE, AND LAWYERS IN THE FIRM OF BASHAM, RINGE AND CORREA, WHICH HAS ONE OF THE LARGEST PATENT AND TRADEMARK CLIENTEL. GOM KEPT AUGUST 11 DEADLINE FOR CONVERSION OF PATENTS TO CERTIFICATES OF INVENTION. ALVAREZ SOBERANIS TOLD EMBOFF THAT OVER 8,000 CONVERSIONS HAD BEEN APPLIED FOR. HOWEVER, LAWYERS OF B,R,&C DOUBT THIS. THEIR FIRM HAD LESS THAN 400, AND PROJECTING THIS TO ALL OTHER FIRMS, LED THEM TO ESTIMATE A GENEROUS MAXIMUM OF 4,000 CONVERSIONS. FROM THEIR EXPERIENCE THEY ESTIMATE THAT FOR EVERY CONVERSION APPLICATION AT LEAST ONE PATENT APPLICATION WAS DROPPED. LIC. DE PINA VARA, DIRECTOR GENERAL OF INDUSTRIAL PROPERTY, STATED THAT GOM HAD ONLY 17 REPEAT 17 PATENT APPLICATIONS IN MARCH 1976. WE HAVE HEARD FROM SEVERAL SOURCES THAT ALMOST ALL PHARMACEUTICAL FIRMS HAVE WITHDRAWN ANY PATENT APPLICATIONS OUTSTANDING.

2. GOM IS STILL IN PROCESS OF DRAFTING REGULATIONS TO IMPLEMENT THE LAW. EMBASSY HAS BEEN OBTAINING DRAFTS AS THEY ARE ISSUED, BUT ALTHOUGH A DEFINITIVE TEXT HAS BEEN PROMISED EACH WEEK NONE HAS YET BEEN FORTHCOMING. NOW/
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HOWEVER, IT APPEARS THE TEXT OF FIRST REGULATION COULD BE

READY BY END OF SEPTEMBER. EMBASSY WILL POUCH TO EB/CBA/BP AS SOON AS AVAILABLE. THIS REGULATION WILL DEAL WITH TWO MOST TROUBLESOME ASPECTS OF LAW: (A) THE REQUIRED LINKING OF FOREIGN TRADEMARKS; AND (B) RIGHT OF FOREIGN OWNED MEXICAN FIRMS TO OWN TRADEMARKS. B,R,&C LAWYERS BELIEVE THAT CURRENT DRAFT ELIMINATES ABOUT 95 PERCENT OF PROBLEMS EARLIER FORESEEN IN THESE TWO AREAS. THEY, AND OTHER LAWYERS, ARE CONTINUING TO RAISE ISSUES TO TRY TO ELIMINATE OTHER 5 PERCENT. THIS HAS BEEN DELAYING ISSUANCE OF FINAL REGULATION. REGULATION, WHEN ISSUED, WILL BE ISSUED BY PRESIDENT ECHEVERRIA AND, IN EFFECT, HAVE EQUAL LEGAL STANDING AS ORIGINAL LAW.

3. COMMENT: REASON THAT REGULATION HAS BEEN SLOW IN FORTHCOMING IS THAT LAWYERS HERE HAVE BEEN SOMEWHAT DELIBERATELY SLOWING DOWN THE PROCESS BY CONTINUALLY RAISING SERIOUS POINTS ABOUT EACH DRAFT. CURRENT ADMINISTRATION, I.E., CAMPILLO SAINZ, SECRETARY OF INDUSTRY AND COMMERCE, AND ALVAREZ SOBERANIS, WANT TO ISSUE ALL REGULATIONS THEY DEEM NECESSARY TO CARRY OUT THEIR PURPOSE OF THE LAW BEFORE THEY LEAVE OFFICE AT END OF NOVEMBER. BUT LEGAL COMMUNITY SENSES FLAGGING WILL ON THEIR PART AND AT SAME TIME RISING INFLUENCE OF DE PINA VARA, AN EXPERIENCED UNDOCTRINAIRE PATENT LAWYER, WHOM THEY FIND MUCH MORE REASONABLE. BY DELAYING ACTION WITH GRACIOUS COOPERATION THEY HOPE TO AVOID ISSUANCE OF ANY OTHER REGULATIONS CONCERNING LAW UNTIL AFTER LOPEZ PORTILLO TEAM TAKES OVER. ALTHOUGH DE PINA VARA WILL ALSO LEAVE WITH TERMINATION OF THIS ADMINISTRATION, HOPE REMAINS THAT NEW ADMINISTRATION WILL PROVE MUCH MORE AMENABLE TO FOREIGN INVESTMENT AND, HENCE, TO PROBLEMS POSED BY THE NEW LAW. HOWEVER NO POSSIBILITY OF REPEAL OF LAW OR ANY PART OF IT IS FORESEEN. THOMPSON

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